

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

LeRoy K. Wheeler,

Plaintiff,

vs.

State of North Dakota, Tim Schuetzle, and
Leann K. Bertsch,

Defendant.

**ORDER ADOPTING
REPORT AND RECOMMENDATION**

Case No. 1:07-cv-075

The plaintiff, LeRoy K. Wheeler, filed a pro se civil rights action under 42 U.S.C. § 1983 on October 26, 2007. Magistrate Judge Charles S. Miller, Jr. conducted an initial review as mandated by 28 U.S.C. § 1915A, and submitted a Report and Recommendation. Judge Miller recommended that Wheeler be allowed to proceed on the claim of disclosure of prison communications and on the claim for alleged retaliation on account of the exercise of constitutional rights. Judge Miller recommended that Wheeler's claim for damages be dismissed without prejudice. Wheeler was then given ten (10) days to file an objection to the Report and Recommendation. No objection was filed. The Court has carefully reviewed the Report and Recommendation, relevant case law, and the record as a whole and finds the Report and Recommendation to be persuasive. The Court **ADOPTS** the Report and Recommendation (Docket No. 8) in its entirety. The Court **ORDERS** that Wheeler shall be allowed to proceed with the following two claims:

1. Claim No. 1: disclosure of prison communications and labeling Wheeler as a "snitch."
2. Claim No. 2: alleged retaliation on account of the exercise of constitutional rights.

The Court further **ORDERS** that Wheeler's claim for damages shall be **DISMISSED** without prejudice.

IT IS SO ORDERED.

Dated this 2nd day of January, 2008.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge
United States District Court